

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

DYLAN RADTKE, et al.

Defendants.

ORDER

Case No. 21-cv-598-jdp

This case was closed after plaintiff did not submit the \$402 filing fee or a properly supported motion leave to proceed without prepayment of the filing fee by the October 22, 2021 deadline. On November 16, 2021, plaintiff submitted a motion leave to proceed without prepayment of the filing fee and a trust fund account statement. The same day I entered an order assessing plaintiff an initial partial payment of \$1.11. Now plaintiff has filed a motion to waive the initial partial filing fee. Dkt. 10. I will deny without prejudice plaintiff's motion for the following reasons.

In 28 U.S.C. § 1915, Congress has dictated the manner in which prisoners must pay the fees for filing federal lawsuits and appeals, and I have no discretion to modify this method. In calculating the amount of plaintiff's initial partial payment in this case, I used the prisoner trust fund account statement plaintiff submitted on November 16, 2021, in support of his for leave to proceed without prepaying the fee. Dkts. 9 and 10. The account statement shows that plaintiff has had deposits made to his account, which I was able to calculate plaintiff's average monthly deposits to be \$1.11.

Because the trust account statement plaintiff submitted in this case shows that plaintiff is receiving regular deposits, I will give plaintiff an extension of time, until January 4, 2022, to

submit the \$1.11 initial partial payment. If plaintiff does not have enough money in his regular account to pay the \$1.11 initial partial payment, plaintiff may use funds from his release account to pay the \$1.11 initial partial payment.

ORDER

IT IS ORDERED that:

1. Plaintiff Titus Henderson's motion to waive the initial partial payment in the above case, dkt. 10, is DENIED without prejudice.

2. Plaintiff may have an enlargement of time to January 4, 2022, in which to submit a check or money order payable to the clerk of court in the amount of \$1.11. If, by January 4, 2022, plaintiff fails to make the \$1.11 initial partial payment, this case will remain closed.

Entered this 15th day of December, 2021.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge